HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 983 of 2006

Sanjeev Kumar Tyagi s/o Roop Ram
Bopa, P.S. Bhopa, District Muzaffarnagar ..... Applicant

Versus

1. State of Uttaranchal
2. District Judge, Haridwar
3. Collector, Haridwar. ..... Respondents

Dated: 2.12.06

Hon'ble Rajesh Tandon, J.

Heard Sri Mahavir Singh Tyagi counsel for the applicant and learned A.G.A. for the respondents.

By the present application under section 482 Cr.P.C. the applicants have challenged the order dated 7.11.2006 by the District Judge, Haridwar in Misc. Appeal No. 65 of 2006 and order dated 28.8.2006 passed by the Collector, Haridwar under section 3/7 E.C. Act, P.S. Lakshar, District Haridwar.

According to the applicant, on 29.4.2006 a vehicle Tata 207 registration No. U.P. 12K 9736 was seized by the Police having 10 drums of diesel oil and two persons namely Ashok Kumar and Raj Kamal were arrested and F.I.R. was registered as case crime No. 77 of 2006, under section 420 I.P.C. and 3/7 of Essential Commodities Act in Police Station, Laksar. A notice under section 6A of the E.C. Act was sent to Mr. Ashok and Mr. Raj Kamal, however according to the applicant he is the registered owner of the vehicle but no notice was sent to him.

The Collector, Haridwar after considering the objections filed by the parties, confiscated the truck.

The applicant filed appeal before the District Judge, Haridwar under section 6-C of the Essential Commodities Act, which was dismissed by the District Judge, vide order dated 7.11.2006. Against which, the present application under section 482 Cr.P.C. has been filed.

Petitioner has confined his prayer for invoking the provisions of Section 457 (2) of the Code of Criminal Procedure for the release of vehicle during the investigation and trial.

However, in the present case vehicle was seized and confiscated by the Collector under section 6A (1) (c) of the Essential Commodities Act, which reads as under:

6A. Confiscation of essential commodity- *(1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, a report of such seizure shall without unreasonable delay be made to the Collector of the District or the Presidency town in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, the collector may if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order may order confiscation of -*

(a) *the essential commodity so seized:*

(b) *any package, covering or receptacle in which such essential commodity is found; and*

(c) *any animal, vehicle or other conveyance used in carrying such essential commodity*

Admittedly, the applicant has availed the opportunity of appeal before the District Judge, Haridwar, which was dismissed, vide order dated 7.11.2006.

The Essential Commodities Act, 1955 is a self contained Act, under which procedure for seizure, confiscation, notice to show cause and appeal against confiscation has been provided.

Counsel for the petitioner has submitted that the applicant is the owner of the vehicle in question but no notice was issued to him by the Collector, Haridwar before proceeding for confiscation. Without recording any findings on the merits of the seizure, liberty is given to the applicant to make a representation to the Collector, Haridwar for the release of the truck on furnishing sufficient security to the satisfaction of the Collector within one week after obtaining certified copy of this order, which shall be decided by the Collector within 15 days, thereafter. Any order passed earlier shall be subject to the final order passed on the fresh representation of the applicant by the Collector.

Accordingly, application under section 482 Cr.P.C. is disposed of.

Rajesh Tandon, J.

Dated: 2.12.2006
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